



**US Army Corps
of Engineers**
Philadelphia District
Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390
ATTN: CENAP-OP-R

Public Notice

Public Notice No.
CENAP-OP-R-2007-301-23

Date
APR 03 2007

Application No.

File No.

In Reply Refer to:
REGULATORY BRANCH

This District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

The purpose of this notice is to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the work described below.

APPLICANT: Love Creek Marina, c/o Mr. Milt Chaski

AGENT: Evelyn M. Maurmeyer, Ph.D.

WATERWAY: Love Creek

LOCATION: Tax Parcel 3-34-18-32, Sussex County, Delaware

ACTIVITY: The applicant, Love Creek Marina, proposes to reconfigure an existing commercial docking facility, stabilize an eroding shoreline, and conduct maintenance dredging at the Love Creek Marina, located at Tax Parcel 3-34-18-32, Sussex County, Delaware.

The reconfiguration would result in a net increase of 3 boat slips (from 41 to 44 slips). To accomplish this, the applicant proposes to remove a 20' x 3' finger pier and a 20' x 2' finger pier. The applicant would construct the following new structures:

40' x 4' pier with a 30' x 3.5' dock and a 16' x 2' finger pier
15' x 2' pier
12' x 2' pier
six (6) free-standing mooring piles

To restore navigable depths at the marina, the applicant intends to conduct maintenance dredging, removing 1800 cubic yards of sediment to a depth of -3.5 mean low water. Most of the material (1060 cubic yards) would be mechanically dredged from shore using a long-reach excavator. The remainder of the material (740 cubic yards) would be dredged hydraulically. All of the dredged material would be disposed of on uplands at the site.

The applicant also proposes to stabilize 150 linear feet of eroding river bank by installing stone-filled erosion control mattresses (trade name - Terra Aqua Reno Mattress). The mattresses

would cover 1,050 square feet (0.02 acre) of open water below the high tide line. The stabilization work would not affect wetlands.

PURPOSE: To improve and maintain an existing marina facility.

A preliminary review of this application indicates that the proposed work would not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

The decision whether to issue a permit will be based on an evaluation of the activity's probable impact including its cumulative impacts on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and welfare of the people. A Department of the Army permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the proposed work should be submitted, in writing, within 15 days to the District Engineer, U.S. Army Corps of Engineers, Philadelphia District, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390.

Review of the National Register of Historic Places indicates that no registered properties or properties listed as eligible for inclusion therein are located within the permit area of the work.

Essential Fish Habitat: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act 1996 (Public Law 104-267), requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely effect Essential Fish Habitat (EFH).

Effects of the Project: The project is located in Essential Fish Habitat identified on sheet 81 of the Guide to Essential Fish Habitat Designations in the Northeastern United States, Volume IV:

New Jersey and Delaware, dated March 1999. The following managed species of fish have been listed in the guide as occurring in the vicinity of the project: winter flounder (*Pleuronectes americanus*), windowpane flounder (*Scophthalmus aquosus*), red hake (*Urophycis chuss*), bluefish (*Pomatomus saltatrix*), Atlantic sea herring (*Clupea harengus*), long finned squid (*Loligo pealei*), short finned squid (*Illex illecebrosus*), Atlantic butterfish (*Peprilus triacanthus*), summer flounder (*Paralichthys dentatus*), scup (*Stenotomus chrysops*), black sea bass (*Centropristus striata*), surf clam (*Spisula solidissima*), ocean quahog (*Arctica islandica*), spiny dogfish (*Squalus acanthias*), Atlantic mackerel (*Scomber scombrus*), king mackerel (*Scomberomorus cavalla*), Spanish mackerel (*Scomberomorus maculatus*), cobia (*Rachycentron canadum*), sandbar shark (*Carcharhinus obscurus*), sand tiger shark (*Odontaspis Taurus*), and dusky shark (*Carcharhinus plumbeus*).

Analysis of the Effects: The proposed work would occur in a small area of waters within the existing marina, adjacent to an eroding shoreline and subject to regular boating activity. For these reasons the work area is an unlikely spawning or nursery area for the managed species. Consequently, concentrations of the sessile life stages (eggs and larva) of the listed species are not expected to be within the work area. The proposed mechanical dredging would be conducted using a slowly moving mechanical excavator. The pelagic adults and juveniles of the listed species are highly mobile and capable of avoiding impacts associated with the work.

Corps of Engineers View: Based upon the above analysis, the Corps of Engineers has determined that the proposed project would not have substantial direct, indirect, site-specific, or habitat-wide impacts on EFH, or upon the managed species and their life stages listed in the above referenced EFH guide, either individually, cumulatively or synergistically. The proposed project would not eliminate, diminish, nor disrupt the functions of EFH.

Proposed Mitigation: Because the impacts of the proposed work on EFH have been determined to be minor, the Corps of Engineers has determined that mitigative measures are not necessary.


In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, applicants for Federal Licenses or Permits to conduct an activity affecting land or water uses in a State's coastal zone must provide certification that the activity complies with the State's Coastal Zone Management Program. The applicant has stated that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management (CZM) Program. No permit will be issued until the State has concurred with the applicant's certification or has waived its right to do so. Comments concerning the impact of the proposed and/or existing activity on the State's coastal zone should be sent to this office, with a copy to the State's Office of Coastal Zone Management.

In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate is necessary from the State government in which the work is located. Any comments concerning the work described above which relate to Water Quality considerations should be sent to this office with a copy to the State.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act.

Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

Additional information concerning this permit application may be obtained by calling John Brundage at 302-736-9763 between the hours of 1:00 and 3:30 p.m. or writing this office at the above address.



Frank J. Cianfrani
Chief, Regulatory Branch

2007-301

(ADDITION OF THREE SLIPS; 41-44 SLIPS);
1,700 C.Y. MECHANICAL/HYDRAULIC MAINTENANCE
DREDGING WITH ON-SITE, UPLAND DISPOSAL;
AND PLACEMENT OF 150' OF GABIONS

IN: Love Creek Marina (adjacent to Love Creek)

AT: Route 24 (John J. Williams Highway) at
Love Creek Park, Lewes, Sussex County, DE 19958
Tax Map Parcel #3-34-18-32

APPLICANT: Milt Chaski, Love Creek Marina & Mobile Homesites, Inc.

DATE: July, 2006

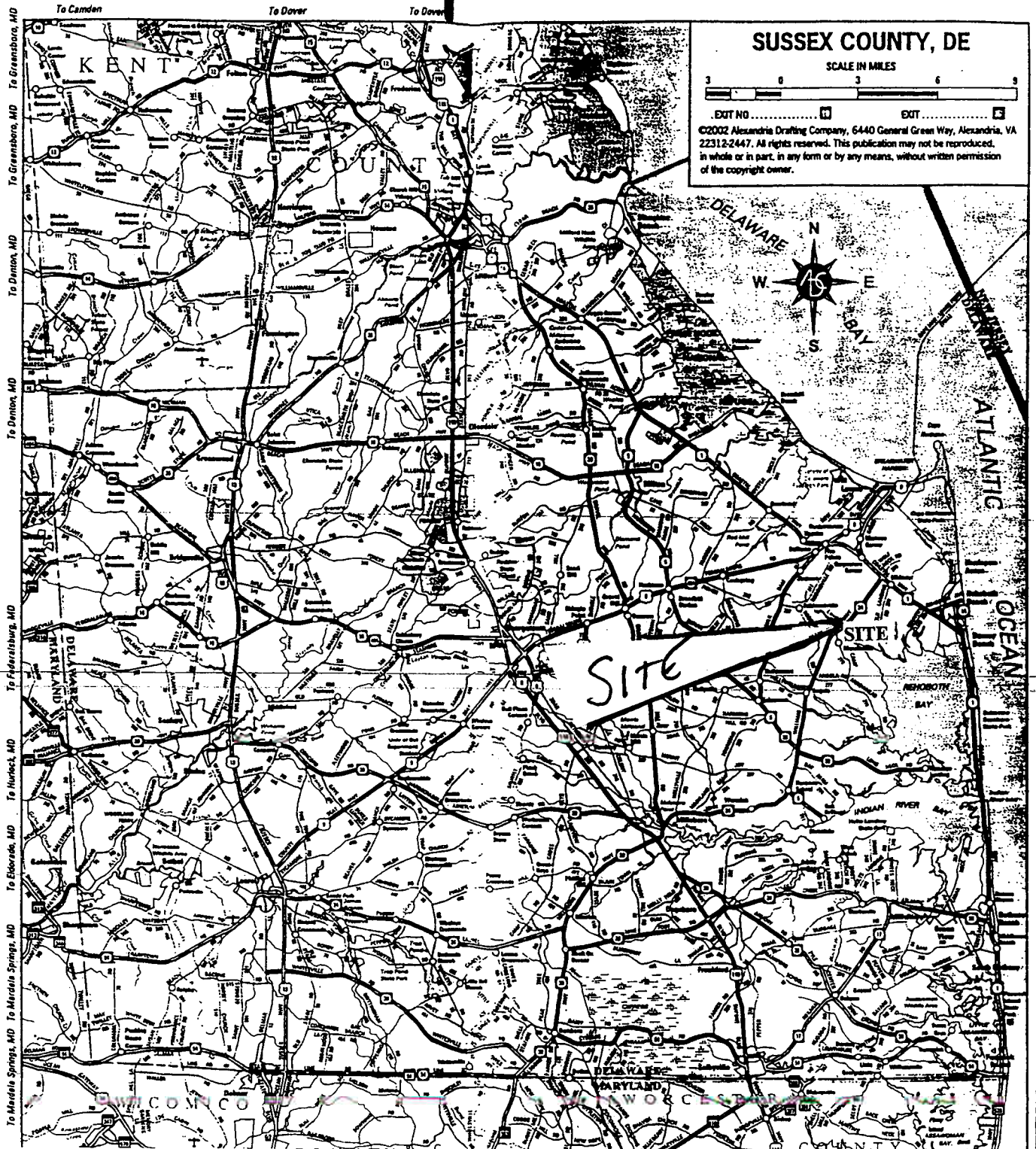


Figure 1. Map of Sussex County, Delaware showing site location, Love Creek Marina, Lewes area, Delaware. Scale as shown.

E-1

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 1,700 C.Y. MECHANICAL/HYDRAULIC MAINTENANCE
 DREDGING WITH ON-SITE, UPLAND DISPOSAL;
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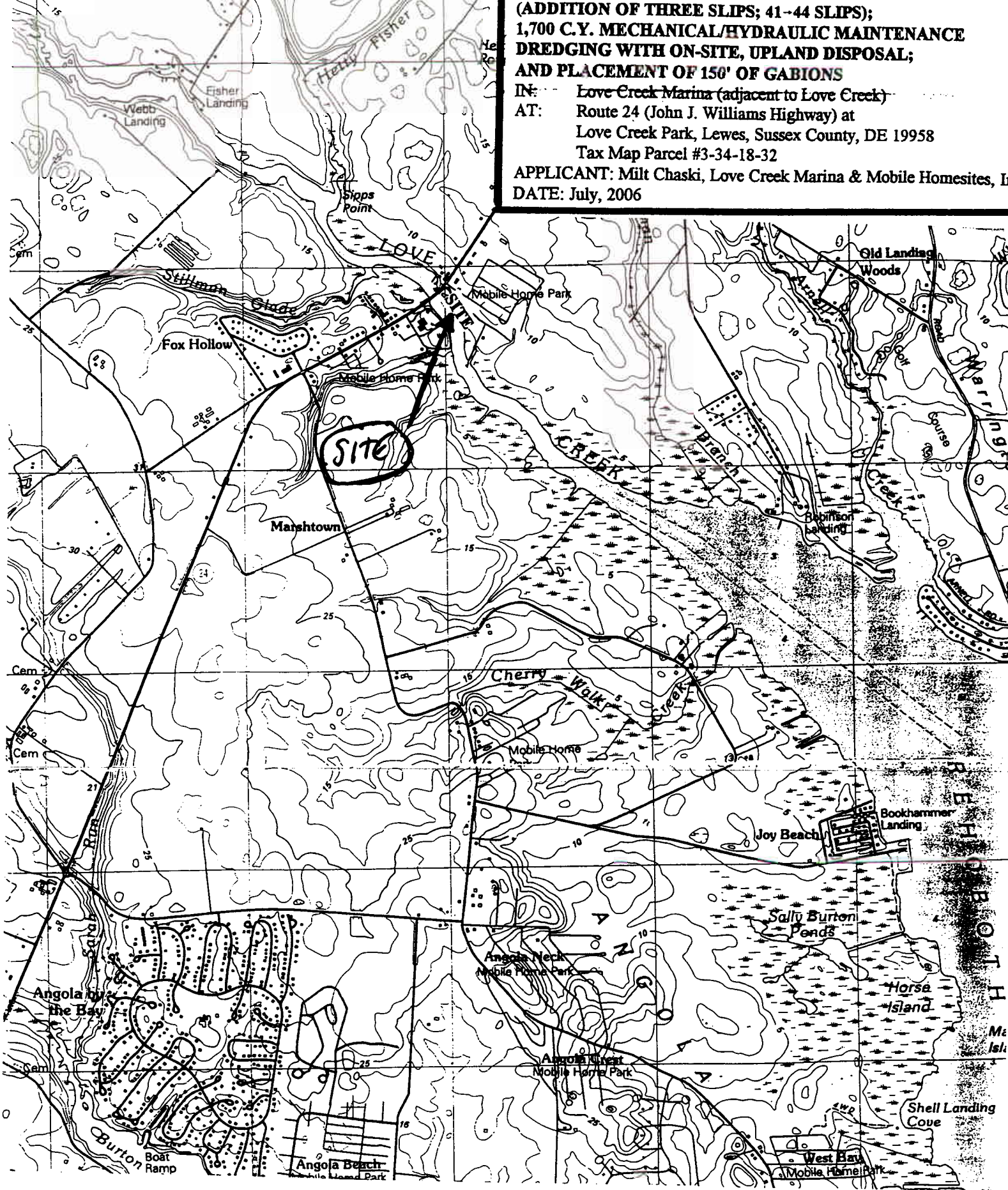


Figure 3. Site location on USGS topographic map, Fairmount, Delaware quadrangle. Site is adjacent to Love Creek, tributary of Rehoboth Bay. Scale: 1" = 2,000'.

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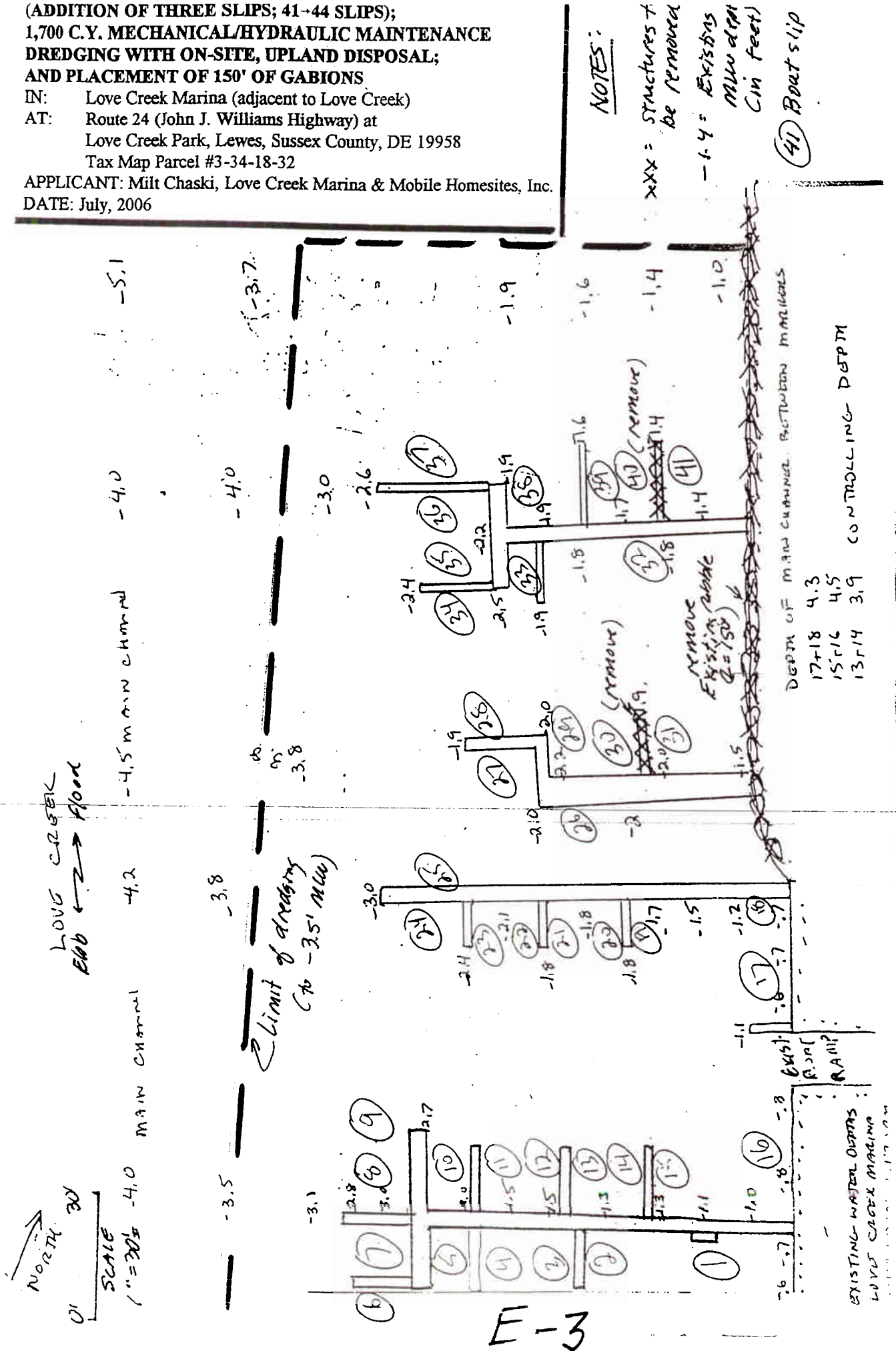


Figure 8. Plan view of Love Creek Marina showing existing structures and MLW depths (as measured on site by applicant on May 30, 2006); existing boat slips (numbered 1-41); and existing structures to be removed. Reconfiguration of marina will result in net increase of three slips (from 41 to 44 slips); maintenance dredging to -3.5' MLW will restore navigation. See Figure 9 for plan of reconfigured marina.

RECONFIGURATION OF EXISTING MARINA
(ADDITION OF THREE SLIPS; 41-44 SLIPS);
1,700 C.Y. MECHANICAL/HYDRAULIC MAINTENANCE
DREDGING WITH ON-SITE, UPLAND DISPOSAL;
AND PLACEMENT OF 150' OF GABIONS

IN: Love Creek Marina (adjacent to Love Creek)

AT: Route 24 (John J. Williams Highway) at

Love Creek Park, Lewes, Sussex County, DE 19958

Tax Map Parcel #3-34-18-32

APPLICANT: Milt Chaski, Love Creek Marina & Mobile Homesites, Inc.
DATE: July, 2006

NOTES

(37) = Boat slip

New:
40' x 4' pier
3 1/2 x 30' dock
16' x 2' finger pier

Total of
6 mooring
6 pilings

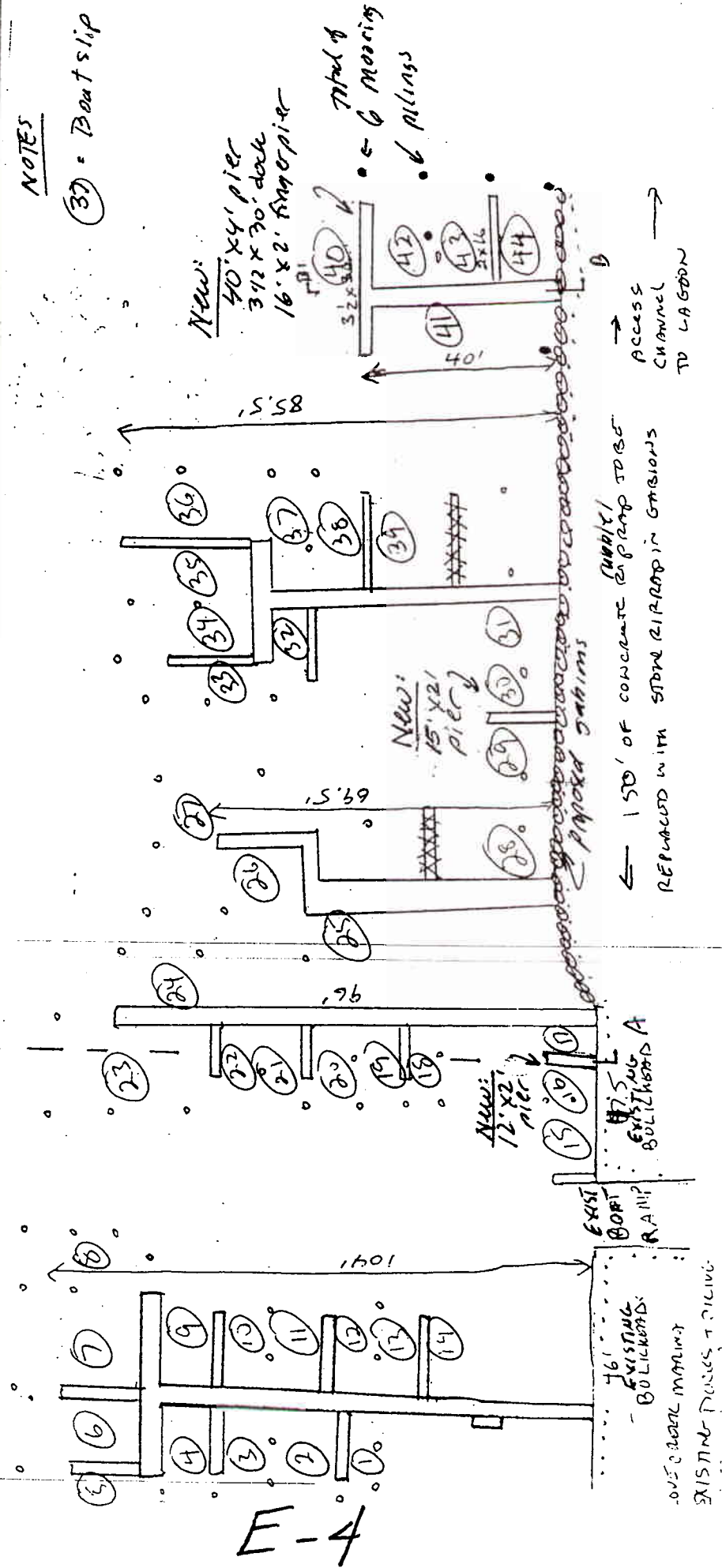
← 150' of concrete riprap to be
REPLACED WITH STONE RIPRAP IN GABIONS

→ ACCESS
CHANNEL
TO LAGOON

Figure 9. Plan view of Love Creek Marina showing proposed new structures and proposed boat slips (numbered 1-44). Reconfiguration of marina will result in net increase of three slips (from 41 to 44 slips); maintenance dredging to -3.5' MLW will restore navigation. See Figure 10 for cross-section sketches.

LOVE CREEK
Ebb → Flood

0' 30' SCALE
1" = 30' ±



RECONFIGURATION OF EXISTING MARINA

(ADDITION OF THREE SLIPS; 41-44 SLIPS);

1,700 C.Y. MECHANICAL/HYDRAULIC MAINTENANCE

DREDGING WITH ON-SITE, UPLAND DISPOSAL;

AND PLACEMENT OF 150' OF GABIONS

IN: Love Creek Marina (adjacent to Love Creek)

AT: Route 24 (John J. Williams Highway) at

Love Creek Park, Lewes, Sussex County, DE 19958

Tax Map Parcel #33-4-18-32

APPLICANT: Milt Chaski, Love Creek Marina & Mobile Homesites, Inc.

DATE: July, 2006

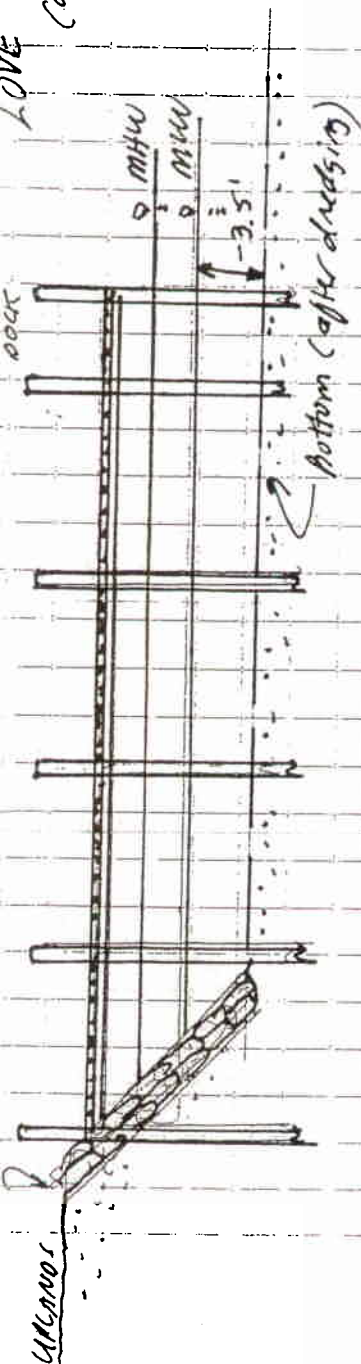
B

Proposed 150' Gabions (bank stabilization)

Proposed 40' x 41' pier

3.5' x 30' dock

LOVE CREEK MARINA
Adjacent to Love Creek



E-5

EXISTING bulkhead, new 20' 12' x 2' pier

A

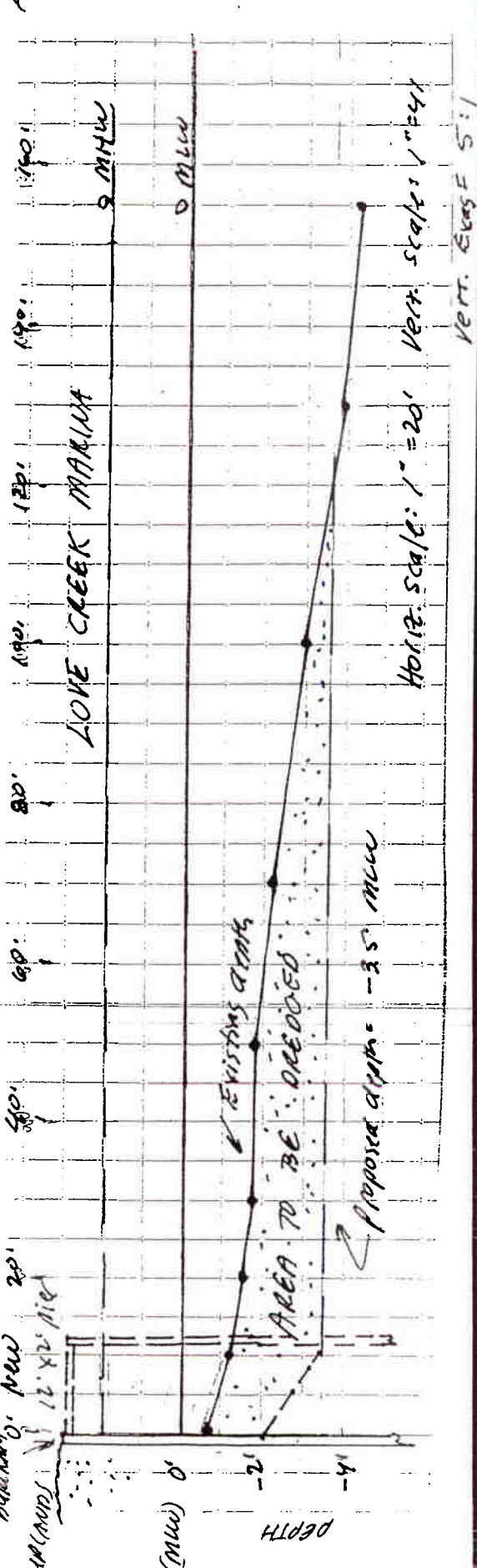


Figure 10. Cross-section sketches of proposed project